

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Fishman Haygood Phelps Walmsley,
Willis & Swanson, LLP, *and all others*
similarly situated,

Plaintiffs,

v.

State Street Corporation, State Street
Bank & Trust Co., State Street Bank &
Trust Co. of New Hampshire, and
State Street Global Advisors,

Defendants.

Case No. 1:09-CV-10533 PBS

STIPULATION RE EXPERT DISCOVERY

The parties respectfully submit this stipulation regarding limitations on expert discovery. In support of this stipulation, the Parties state as follows:

WHEREAS, the Parties believe that limitations on expert discovery are appropriate to streamline the discovery process; and

WHEREAS, the Parties believe that the expert discovery limitations currently under consideration by the Advisory Committee on Civil Rules as an amendment to Federal Rule of Civil Procedure 26 are an appropriate form for such an order in this case;

NOW THEREFORE THE PARTIES HEREBY STIPULATE and jointly request that the Court enter an order that:

1. The Parties shall not seek discovery of drafts of any report or disclosure required under Rule 26(a)(2), regardless of the form of the draft, including drafts of supporting materials used or referenced in such documents.

2. The Parties shall not seek discovery of written or electronic communications between a Party's attorney and any witness required to provide a report under Rule 26, regardless of the form of the communications.

3. The provisions of paragraph 2 above shall not prevent discovery of communications that (a) relate to compensation for the expert's study or testimony, (b) identify facts or data that the Party's attorney provided and that the expert considered in forming the opinions to be expressed, (c) identify assumptions that the Party's attorney provided and that the expert relied upon in forming the opinions to be expressed, or (d) relate to the authorship, in whole or in part, of any report or disclosure required under Rule 26(a)(2).

4. The parties shall not seek discovery of any written or electronic communications between a Party's attorney and any consultant not required to provide a report under Rule 26 conducted in anticipation of litigation or for trial, regardless of the form of communications, and shall not seek discovery of any drafts of a written statement, opinion, or report that the consultant has signed or otherwise adopted or approved.

Dated: February 4, 2010

Respectfully submitted,

<u>/s/ Gregory Y. Porter</u> Gregory Y. Porter (<i>pro hac vice</i>) Bailey & Glasser, LLP 910 17 th Street, Suite 800 Washington, DC 20006 Tel: 202-543-0226 Fax: 202-463-2103 E-mail: gporter@baileyglasser.com	<u>Lori A. Martin</u> Lori A. Martin (<i>pro hac vice</i>) Dawn M. Wilson (<i>pro hac vice</i>) Brad Konstandt (<i>pro hac vice</i>) Wilmer Cutler Pickering Hale and Dorr LLP 399 Park Avenue New York, New York 10022 Tel.: (212) 230-8800 Fax: (212) 230-8888 E-mail: lori.martin@wilmerhale.com
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CERTIFICATE OF SERVICE

I hereby certify that on February 4, 2010, I caused a copy of this Document and its attachments to be served electronically, via the electronic filing system, on the registered participants as identified on the Notice of Electronic Filing (NEF) and by first-class mail on those indicated as non-registered participants.

/s/ Lori A. Martin

Lori A. Martin